

# **EXHIBIT 26**

# Pratt Associates

Pratt & Associates

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www.prattattorneys.com

April 19, 2013

**VIA EMAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Mark Goodman  
Ethan Miller  
Hogan Lovells US LLP  
3 Embarcadero Center  
Suite 1500  
San Francisco, CA 94111

Re: Notice and Demand Letter under Consumer Legal Remedies Act Re:  
Ang, et. al. v. Bimbo Bakeries USA, Inc.; Case No. 4:13-cv-01196-DMR

Dear Mr. Goodman:

Together with co-counsel, I represent Alex Ang and Lynn Streit ("Plaintiffs"), who purchased misbranded Bimbo food products at various times within the past four years. Thank you for accepting service of this letter on behalf of Bimbo Bakeries USA, Inc. ("Bimbo").

Pursuant to the California Consumer Legal Remedies Act ("CLRA"), California Civil Code § 1750, *et seq.* (specifically, §§ 1782(a)(1) and (2)), Plaintiffs, on behalf of themselves and all other similarly situated consumers (collectively, the "Class"), hereby notify you that Bimbo is alleged to have violated the CLRA by making unlawful misrepresentations in connection with the labeling of certain of its food products. In your letter of April 5, 2013, you acknowledged receipt of Plaintiffs' Complaint filed in the United States District Court for the Northern District of California, which sets forth the specific allegations concerning Bimbo's misbranded food products.

Bimbo's misrepresentations constitute the following violations of the CLRA:

- a. Representing that its goods have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have (Cal. Civ. Code § 1770(a)(5));
- b. Representing that its goods are of a particular standard, quality, or grade when they are of another (Cal. Civ. Code § 1770(a)(7));
- c. Advertising goods with the intent not to sell them as advertised (Cal. Civ. Code § 1770(a)(9)); and

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d. Representing that its goods have been supplied in accordance with a previous representation when they have not (Cal. Civ. Code § 1770(a)(16)).

Pursuant to §1782 of the CLRA, and based on the foregoing, we hereby demand that within thirty (30) days of receiving this letter, Bimbo correct its unlawful practices, and refund any funds paid for the purchase of misbranded Bimbo products by Plaintiffs and other Class members.

Please be advised that should Bimbo refuse this demand, Plaintiffs will seek monetary damages for themselves and the Class, in addition to the award of injunctive relief, restitution, punitive damages, attorneys' fees and costs, and any other relief the court deems proper, as demanded in the Complaint.

If you have any questions regarding this notice and demand, feel free to contact me at (408) 429-6506.

Very truly yours,

/s/ Pierce Gore  
Pierce Gore

cc: Plaintiffs' Counsel (via email)

# EXHIBIT 27



John C. Lee  
Vice President Bread  
255 Business Center Drive  
Horsham, Pennsylvania 19044

Delivered: Certified Mail

May 17, 2013

Mr. Alex Ang  
Ms. Lynn Streit  
c/o Pierce Gore, Esq.  
Pratt & Associates  
1871 The Alameda, Suite 425  
San Jose, CA 95126

Dear Mr. Ang and Ms. Streit :

On behalf of BBU, Inc. and its subsidiaries, including Bimbo Bakeries USA, Inc., (collectively "BBU"), I am writing to acknowledge receipt of and to respond to the April 19, 2013 letter, sent by your counsel, Pierce Gore, on your behalf, entitled "Notice and Demand Letter". Despite the title of the letter and references to California Civil Code section 1782(a) and the Consumers Legal Remedies Act, it is our position that the letter fails to satisfy the statutory requirements of a CLRA demand in multiple ways.

Fundamentally, the purpose of a CLRA demand letter is to provide notice of specific violations of the California Civil Code to allow us a full opportunity to correct any problems with a product or its advertising/labeling and, thus, avoid any liability for the ostensible violations. Of course, such notice and the opportunity to address any issues that are identified can only be accomplished if and when we are adequately informed of which specific products you purchased and the issues you have experienced with respect to those products. The letter sent on your behalf does not identify the products you purchased, does not tell us what specific problems you believe exist with respect to those particular products and, thus, does not convey to us what we can do to fix the problems you are trying to bring to our attention.

More particularly, the California statute cited in your letter requires you to provide notice of "the particular violations" complained about but you state only that you purchased "misbranded Bimbo food products at various times". This does not identify which specific food products you purchased, when and where you purchased them or how you believe they were "misbranded." Your letter goes on to state that misrepresentations constitute violations of the CLRA but none of the alleged violations identify the particular goods or the violations that you are claiming. Saying that Bimbo Bakeries USA, Inc. has violated the CLRA by "representing that its goods have sponsorship approval, characteristics, ingredients, uses, benefits, or quantities which they do not have" does not tell us what goods or sponsorship, approval, characteristics, ingredients, uses, benefits or quantities you are referring to and, thus, does not allow us to understand "the particular alleged violations" complained about, as required by the statute. Likewise, saying that Bimbo Bakeries USA, Inc. represented that goods were of a particular standard, quality or grade when they are of another not

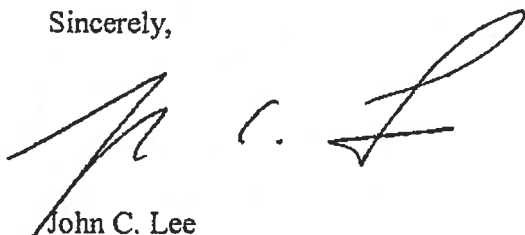
only does not tell us what products you are referring to, it does not reveal what the supposed standards, qualities or grades were represented to be or what you contend they actually are. Your letter also fails to identify the specific advertisements that you claim violate law. Because of these deficiencies, the letter does not provide notice sufficient to permit BBU to understand what products and representations you are referring to or to make appropriate corrections, if any, that may be warranted.

Notwithstanding your letter's failures to comply with the CLRA or put us on notice of any errors relating to our products, we want to inform you and any other consumers of our products that BBU regularly reviews the labels and advertising used with respect to its products. Our intent is for our labeling to be accurate and to comply with all applicable law. In the event that an error is detected, we endeavor to remedy it as soon as possible. For instance, we recently discovered an error on the 8-count packaging for Thomas'® Bagel Thins™. The reference to an "excellent source of fiber" on the label, despite other references on that same label to a "good source of fiber", was the result of a clerical printing error. All of the references on the label should have been consistent and should have said "good source of fiber". That error has been corrected and new product packaging will be in the marketplace soon. Corrections and updates have also been made to labels for some Sara Lee products, which labels were in use for products before BBU purchased the Sara Lee Fresh Bakery business. Shortly after the acquisition of the Sara Lee fresh bakery business became final, we began a process to revise and update the Sara Lee packaging, including correcting any errors or mistakes that might have existed at the time of the acquisition. That process continues to this day. Given these measures, we assume that the issues that you intended to reference in your letter have been addressed.

As noted, we regularly review and monitor all our products' packaging. We take this opportunity to assure you and all consumers of our products that we will correct any mistakes relating to our products of which we become aware. If you or any other consumers of our products have any questions or problems with any of our products that you purchase, we encourage you to contact the Consumer Relations Department by using the contact information provided on the product label. Our Consumers Relations team will work to ensure that you have a satisfactory experience with our product since consumer satisfaction is our ultimate company goal.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Lee". The signature is stylized with a large, sweeping "J" and "L".

John C. Lee  
Vice President Bread

# **EXHIBIT 28**



6/19/13

## Heart-Check Program

Alert

American Medical Association says obesity is a disease. The American Heart Association comments.

x

LOCAL INFO | LANGUAGES | CAREERS | VOLUNTEER | DONATE

How Can We Help Your Heart?

GETTING HEALTHY | CONDITIONS | HEALTHCARE / RESEARCH | CAREGIVER | EDUCATOR | CPR &amp; ECC | SHOP | CAUSES | ADVOCATE | GIVING | NEWS

Nutrition Center | Physical Activity | Healthier Kids | Weight Management | Stress Management | Fats &amp; Oils | Quit Smoking

## Heart-Check Program

Share 0 Like 273 Tweet 65 1 533 Updated: Jun 11, 2013



The Heart-Check mark makes it easy to spot heart-healthy foods in the grocery store or when dining out. Simply look for the name of the American Heart Association along with our familiar red heart with a white check mark on the package or menu. But not all red hearts you see are from the American Heart Association; look for the AHA name to be sure.

When you spot the American Heart Association's Heart-Check mark, you'll instantly know the food has been certified to meet the American Heart Association's [guidelines for a heart-healthy food](#). It's a good first step in creating an overall sensible eating plan.

[Que nuestro corazón sea su guía.](#)

### Certified Foods in the Grocery Store

Check out all the products we have certified. Browse the list by food type or by company.

### Nutrition Guidelines for Foods in Grocery Stores

Learn about the nutritional standards for certified foods in grocery stores.

### My Grocery List

Build your very own grocery list with certified products and other household necessities.

### Certified Meals in Restaurants and Foodservice

Find out where you can see the Heart-Check mark for certified meals in restaurants and foodservice.

### Nutrition Guidelines for Meals in Restaurants and Foodservice

Learn about the nutritional standards for certified meals in restaurants and foodservice.

### Heart-Check Mark from 1995 to Today

See how the look of the Heart-Check mark has evolved over the years.

#### For Food & Nutrition Professionals:

##### Health Professionals

The Heart-Check mark helps your clients/patients follow your guidance and make healthy choices.

##### Food Manufacturers & Trade Associations

Learn how to certify your heart-healthy food with the Heart-Check mark

##### Grocery Retailers

In-store promotions with the Heart-Check mark drive customer loyalty

#### Tools

##### Twitter & Facebook



Get live updates by following us on [Twitter](#). Interact with others by joining our Nutrition Center on [Facebook](#).

##### My Life Check

##### Fats and Sodium Explorer

##### Delicious Decisions

##### Grocery List

#### Popular Articles

- 1 [Understanding Blood Pressure Readings](#)
- 2 [Heart Attack Symptoms in Women](#)
- 3 [What are the Symptoms of High Blood Pressure?](#)
- 4 [Low Blood Pressure](#)
- 5 [What Your Cholesterol Levels Mean](#)
- 6 [Warning Signs of a Heart Attack](#)
- 7 [Good vs. Bad Cholesterol](#)
- 8 [Target Heart Rates](#)
- 9 [Types of Blood Pressure Medications](#)
- 10 [BLS for Healthcare Providers - Classroom](#)

#### About Us

Our mission is to build healthier lives, free of cardiovascular diseases and stroke. That single purpose drives all we do. The need for our work is

#### Our Causes

[Go Red For Women](#)  
[Go Red Por Tu Corazón](#)

#### Our Sites

[American Heart Association](#)  
[American Stroke Association](#)

#### Contact Us

Address  
7272 Greenville Ave.



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## Heart-Check Program

beyond question. [More](#)

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Dallas, TX 75231

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1-800-242-8721

1-888-474-VIVE

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## Heart-Check Mark Nutritional Guidelines

Alert

American Medical Association says obesity is a disease. The American Heart Association comments.

x

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How Can We Help Your Heart?

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Nutrition Center | Physical Activity | Healthier Kids | Weight Management | Stress Management | Fats &amp; Oils | Quit Smoking

## Heart-Check Mark Nutritional Guidelines

Share 0 Like 204 Tweet 54 7 210 Updated Jan 2, 2013

Looking for the American Heart Association's Heart-Check mark on food packaging in the grocery store is a good first step in creating a sensible eating plan. In Sept. 2011, changes and enhancements to the program were made to be inclusive of foods that can be building blocks to a heart-healthy dietary pattern.

To be certified, a product must meet the specific nutritional levels. These levels are based on a single serving size as specified by the FDA for an individual food (officially known as Reference Amount Customarily Consumed or RACC) unless otherwise specified. Other aspects of federal health claim regulations may also apply.

[View this chart to see the nutrition guidelines.](#)

## Popular Articles

- 1 [Understanding Blood Pressure Readings](#)
- 2 [Heart Attack Symptoms in Women](#)
- 3 [What are the Symptoms of High Blood Pressure?](#)
- 4 [Low Blood Pressure](#)
- 5 [What Your Cholesterol Levels Mean](#)
- 6 [Warning Signs of a Heart Attack](#)
- 7 [Good vs. Bad Cholesterol](#)
- 8 [Target Heart Rates](#)
- 9 [Types of Blood Pressure Medications](#)
- 10 [BLS for Healthcare Providers - Classroom](#)

## Heart-Check Food Certification Program Nutritional Guidelines

## Standard Certification (FDA-regulated products)

## Extra Lean Certification (meat and seafood)

## Main Dish &amp; Meal Products

## Whole Grains

- Total Fat: Less than 6.5 g
- Saturated Fat: 1 g or less and 15% or less calories from saturated fat
- Trans Fat: Less than 0.5 g (also per label serving)
- Cholesterol: 20 mg or less
- Sodium: 480 mg or less (also per label serving)
- Beneficial Nutrients: 10% or more of the Daily Value Of 1 of 6 nutrients (vitamin A, vitamin C, Iron, calcium, protein or dietary fiber)
- Whole Grain Content: 51% or more by weight/RACC
- Minimum Dietary Fiber: 1.7 g/RACC of 30 g; 2.5 g/RACC of 45 g; 2.8 g/RACC of 50 g; or 3.0 g/RACC of 55 g

## Nutritional changes effective Jan. 2014:

- [Sodium limits by category.](#)
- Total Sugars: 9 g or less per label serving. Sugars from pieces of fruit do not count toward the total sugar allowance but amounts and sources must be disclosed
- Grain-Based Products: Certifiable grain-based products include breads; biscuits; cereals (ready-to-eat & cooked); crackers; pancakes, French toast; waffles; muffins, and sweet quick-type breads. All grain-based products must be a good source of dietary fiber (10-19% DAILY VALUE per RACC) and contain 7g or less Total Sugars per serving. If the product is an excellent source of dietary fiber (20% or more Daily Value per RACC), the limit is 9 g or less Total Sugars per serving. Sugars from pieces of fruit do not count toward the total sugar allowance but amounts and sources must be disclosed.
- Grain-based bars are not eligible for certification.

## Nuts (Whole or Chopped)

## Fish (Omega-3 Fatty Acids)

We're on your side. When a product is close to exceeding the limits for fat, saturated fat, cholesterol, trans fat or sodium, we conduct lab testing to verify that it meets our nutritional criteria.

It's just another reason why the heart-check mark is a symbol that you can trust when shopping for heart-healthy foods in the grocery store.

We do not currently certify: medical foods, dietary supplements, meal replacements, alcoholic beverages, candy or confections, desserts, any product containing stanol-sterols, any product whose end result per preparation instruction on the package does not meet our criteria, other products that do not align with American Heart Association Science, are inconsistent with AHA Diet and Lifestyle Recommendations, or product names that convey an unhealthy message that could adversely affect the credibility of the program.

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## Heart-Check Mark Nutritional Guidelines

No donations are used to support the Heart-Check program. Participating food manufacturers in the Food Certification Program pay an administrative fee to the American Heart Association which is used to cover program operating expenses.

## About Us

Our mission is to build healthier lives, free of cardiovascular diseases and stroke. That single purpose drives all we do. The need for our work is beyond question. [More](#)



## Our Causes

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[Go Red Por Tu Corazón](#)  
[My Heart My Life](#)  
[Power To End Stroke](#)

## The Warning Signs

[Heart and Stroke Encyclopedia](#)

## Our Sites

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Heart-Check Mark for Food Manufacturers &amp; Trade Associations

Alert

American Medical Association says obesity is a disease. The American Heart Association comments.

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How Can We Help Your Heart?

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Nutrition Center | Physical Activity | Healthier Kids | Weight Management | Stress Management | Fats &amp; Oils | Quit Smoking

## Heart-Check Mark for Food Manufacturers & Trade Associations

Share 0 Like 3 Tweet 8 0 38 Updated: Jun 7, 2013

Since 1995, the Heart-Check mark has guided consumers to heart-healthy choices as a good first step in creating an overall sensible eating plan, and today, it stands as the most trusted (63 percent) and the most recognized (83 percent) health symbol among food icons tested.

Shoppers rely on the Heart-Check mark to make choosing heart-healthy products easy and convenient. And in September 2009, we learned that this brand awareness translates to increased sales.

In-store sales data revealed that the Heart-Check mark boosts incremental sales an average of 5 percent when certified products were highlighted with a shelf hang-tag promotion along with messages distributed at check out.

### Popular Articles

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See more stats on the Heart-Check mark in our [sales sheet](#) and [brochure](#).

Targeting consumers where it matters most—the point of purchase—the program employs a variety of communications tactics designed to raise awareness of nutrition and the Heart-Check mark.

These promotions vary, but have included: shelf hang tags, cart cards, lighted signs, receipt-style messaging, floor ads, TV spots, media placements and more.

Connect health-conscious consumers with your heart-healthy products. Certify your product with the American Heart Association today. Contact [certify@heart.org](mailto:certify@heart.org) or (214) 706-1654.

Questions? See if they are answered in our list of frequently asked questions.

### Frequently Asked Questions

[How can I use the heart-check mark?](#)

[How long does application process for certification take?](#)

[What are the steps to applying for certification?](#)

There are several steps to certifying heart-healthy products:

**Step 1** – Review the nutritional criteria to determine if your product's nutritional profile fits within our limits.

**Step 2** – Contact [April.Whitfield@heart.org](mailto:April.Whitfield@heart.org) or (214) 706-1654 to begin the application process.

**Step 3** – Complete and submit all forms, submit a pdf of product packaging, and provide payment for certification fees.

**Step 4** – Your product is reviewed for compliance with the nutritional criteria. Lab testing may be required if your product approaches the upper limits for fat, saturated fat, trans fat, cholesterol and/or sodium.

**Step 5** – Once it has been determined that your product is eligible for certification, you are asked to



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## Heart-Check Mark for Food Manufacturers &amp; Trade Associations

sign our Certification Mark License Agreement. Then, congratulations, your product is certified for one year.

How long will my product be certified?

How were the nutritional criteria determined?

#### About Us

Our mission is to build healthier lives, free of cardiovascular diseases and stroke. That single purpose drives all we do. The need for our work is beyond question. [More](#)



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# The Heart-Check Mark

## A Leader Among Nutrition Icons

It's a little heart with a **BIG** impact. When the American Heart Association's Heart-Check mark is on the label, shoppers pay attention. **Since 1995**, the Heart-Check mark has guided shoppers to heart-healthy choices. And that longevity has made the Heart-Check mark a **leader** with consumers and in the food industry. Today, the American Heart Association's Heart-Check Food Certification Program maintains an exceptional roster of more than **900 products**, including many of the food industry's top brands.



## WHY CERTIFY?

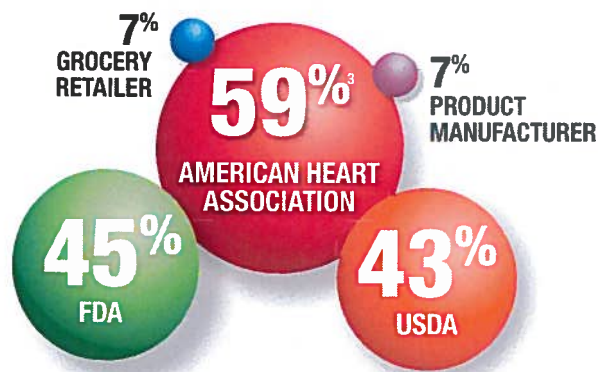
**THE #1 HEALTH CONCERN OF SHOPPERS IS HEART HEALTH.**



**PACKAGING IS THE MOST EFFECTIVE PLACE TO PROMOTE YOUR BRAND'S HEALTH POSITIONING TO SHOPPERS.**



**THE AMERICAN HEART ASSOCIATION IS THE AUTHORITY MOST TRUSTED BY CONSUMERS TO DECIDE IF A PRODUCT MAY DISPLAY A NUTRITION MESSAGE OR MARK.**



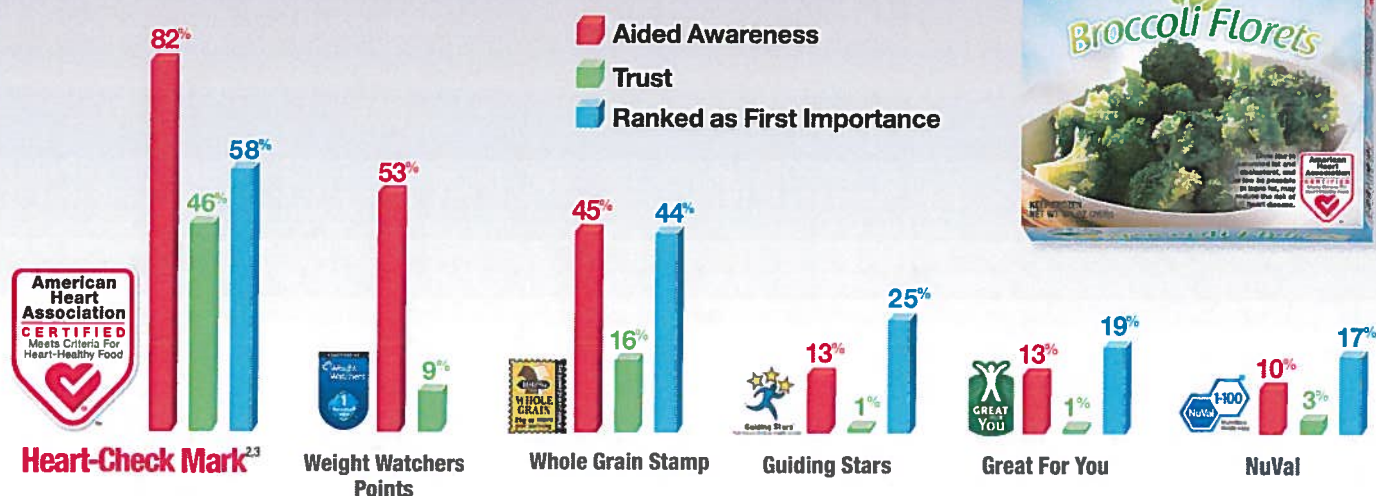
**Consumers trust the Heart-Check mark to help them buy products for a healthier life.<sup>2</sup>**

- 80%** Products that have this symbol are good for me
- 74%** I trust this symbol
- 70%** Products with this symbol are healthier than other brands of the same product
- 60%** This symbol encourages me to purchase specific products

**96%** brand awareness among consumers makes the **AHA** a household name.



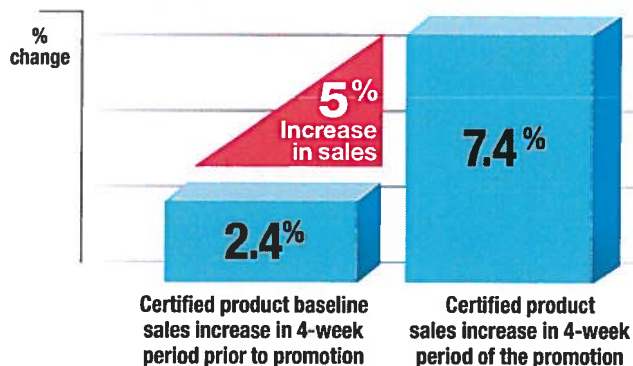
## THE HEART-CHECK MARK IS A STRONG BRAND COMPARED TO OTHER LEADING ON-PACKAGE AND IN-STORE ICONS.



CONSUMER RESEARCH PROVES THAT SHOPPERS KNOW AND TRUST THE HEART-CHECK MARK.

## IT'S A WINNING FORMULA: HIGH AWARENESS + STRONG TRUST OF THE HEART-CHECK MARK = INCREMENTAL SALES FOR YOUR PRODUCT.

A controlled study of in-store promotion of the Heart-Check mark shows **INCREASED TOTAL STORE SALES OF CERTIFIED PRODUCTS BY 5%**<sup>4</sup>



The Heart-Check Mark Boosts New Product Trial and Brand Loyalty



The Heart-Check mark improves the likelihood that

**62%** of shoppers will buy new products

**60%** will keep buying current products.<sup>3</sup>

**62%** have purchased items with the Heart-Check mark on the package or shelf tag below the product in the store.<sup>2</sup>



of shoppers looked for the **Heart-Check mark** on products after seeing an **American Heart Association** promotion.



Scan here to go to: [heartcheckmark.org](http://heartcheckmark.org)

To learn more about certification, contact: (214) 706-1654 [certify@heart.org](mailto:certify@heart.org)

<sup>1</sup>FMI's 2012 Shopping for Health

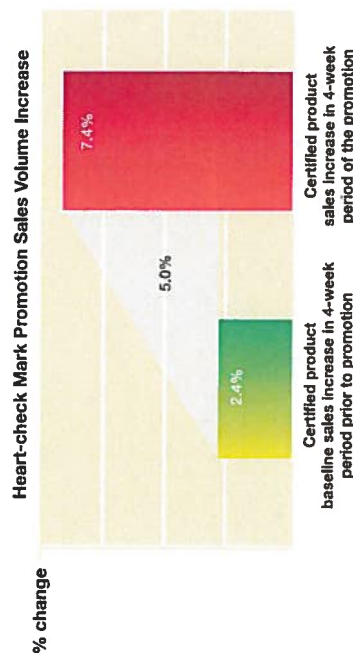
<sup>2</sup>Acosta Marketing Group 2013 Shopper Panel Survey

<sup>3</sup>IPSOS 2012 Consumer Insights Research on Behalf of the AHA

<sup>4</sup>2010 Catalina Marketing



## A controlled study of in-store promotion of the heart-check mark shows increased sales of certified products by 5%



45% of shoppers looked for the heart-check mark on products after seeing an American Heart Association promotion.

## Attitudinal segments find the heart-check mark to be both relevant and a product differentiator



The American Heart Association heart-check mark helps consumers take a simple step toward healthy eating.

To learn more about how the American Heart Association can have a positive impact on your food product positioning and sales, please contact April Whitfield at 214.706.1879, or [april.whitfield@heart.org](mailto:april.whitfield@heart.org).



Products with this mark meet criteria for **Saturated Fat & Cholesterol**  
American Heart Association  
[heartcheckmark.org](http://heartcheckmark.org)

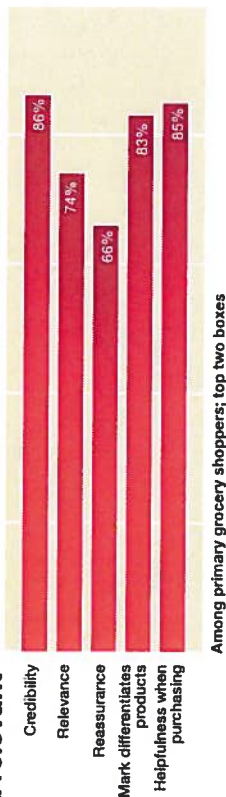


## American Heart Association Food Certification Program

Boosting product sales  
Helping shoppers choose  
Supporting your marketing strategy

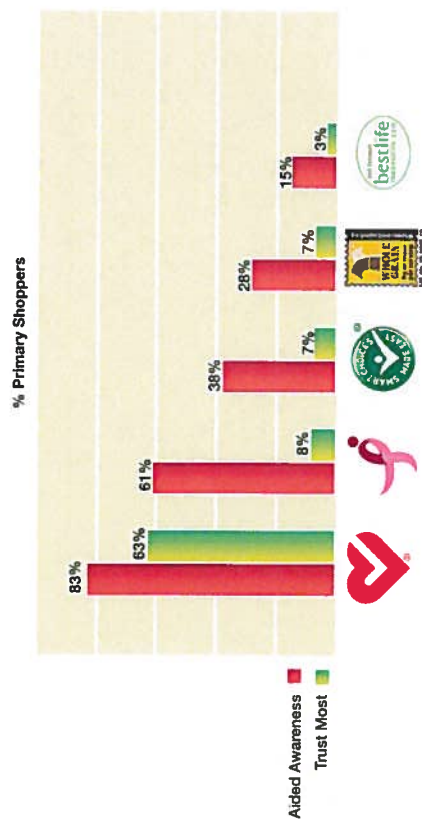


## Primary shoppers find the heart-check mark to be credible and relevant

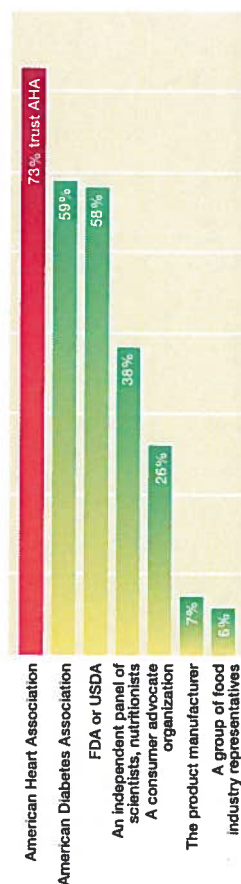


*The heart-check mark has strong brand equity among primary grocery shoppers because of high scores for awareness, differentiation and other attributes.*

## The Food Certification Program is a strong brand vs. other logos/symbols

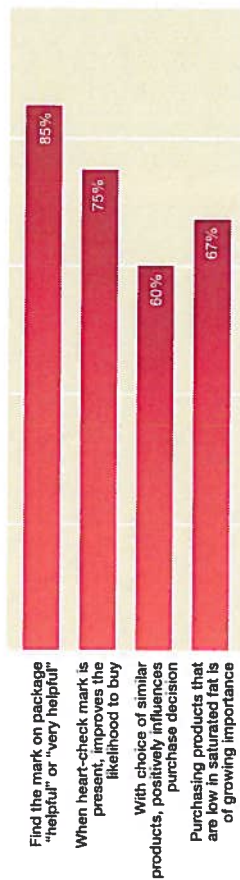


## Primary shoppers trust the American Heart Association more than anyone else to certify food products

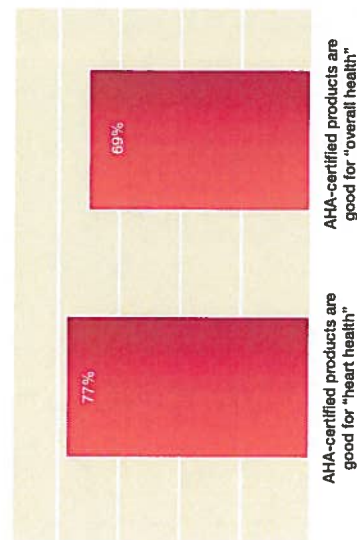


Shoppers want clear, simple purchase guidance from a trusted source. The American Heart Association heart-check mark increases product sales because seeing the mark on a package assures shoppers they are making a smart choice.

## The heart-check mark drives purchase decisions



## Shoppers associate both "heart health" and "overall health" with the heart-check mark



# **EXHIBIT 29**

6/19/13

Compliance Policy Guides &gt; CPG Sec. 505.350 Honey Bread, Honey Buns



**U.S. Food and Drug Administration**  
Protecting and Promoting Your Health

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## **Inspections, Compliance, Enforcement, and Criminal Investigations**

### **CPG Sec. 505.350 Honey Bread, Honey Buns**

#### **BACKGROUND:**

No standard of identity has been established under the Federal Food, Drug, and Cosmetic Act for "honey bread." Inquiries are sometimes received from bakers concerning the labeling of bread or buns as "honey bread" or "honey buns," or by similar names.

#### **POLICY:**

The FDA does not object to use of the word "honey" in the name of nonstandardized bread, buns, or other bakery products if \*the products do not purport to be standardized foods and\* enough honey is used to give the product a characteristic honey flavor. \*FDA believes that at least 8% honey (based on weight of flour) should be used in a bread labeled as honey bread. The use of lesser quantity is not prohibited, but in that case, "honey" should not be featured in the labeling.\* Honey must be listed in its order of predominance in the ingredient statement regardless of the \*amount\* present.

\*Material between asterisks is new or revised.\*

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